



W.P.(MD)No.21322 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.10.2024

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.21322 of 2024

and

W.M.P.(MD)No.18056 of 2024

S.Soundirapandi

... Petitioner

Vs.

1.The District Registrar (Administration),
Registration Department,
Madurai South,
Madurai District.

2.Sulaiman

3.V.Senthur Pandian

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the first respondent in No.9509/AA2/2023 dated 30.05.2024 quash the same and consequently forbearing the first respondent and his subordinates from making entry of cancellation in the registration ledger and encumbrance in respect of the petitioner's property in Survey No.132/1C3A and survey No.132/1E situated in Perungudi Village, Thiruparamkundram, Madurai District.

For Petitioner : Mr.V.S.Kumara Guru



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For R1 : Mr.C.Satheesh
Government Advocate
For R2 : Mr.R.Alagumani

ORDER

Heard the learned counsel appearing on either side and perused the materials placed on record.

2.Challenge has been made to the order passed by the first respondent holding that the petitioner has alienated the subject property by obtaining false death certificate and legal heir certificate and there is some impersonation.

3.The case of the petitioner is that he has purchased the property from the third respondent vide registered sale deed dated 16.09.2010. However, the second respondent, after the death of the third respondent, claiming right over the property has given a complaint before the first respondent. Based on the same, the order impugned in this writ petition has been passed.

4.At the outset, this Court is of the view that the authorities merely based on the death certificate produced before the authorities, without proper proof or evidence, held that there was some impersonation. Without establishing the death certificate, such finding has been rendered. As long as when the forgery



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has not been established, the document of the year 2010 has been cancelled merely based on the allegations made by the second respondent.

6.It is well settled that the Registering Authority has no power to cancel any document as the very Section 77(A) inserted under Registration Act to cancel the registered document, is struck down by the Division Bench of this Court in W.P.No.10291 of 2022 batch. That apart, the issue of title and the fraudulent transaction cannot be gone into by the authorities, which has to be established in the manner known to law before the civil Court in view of the decisions made in *Satya Pal Anand v. State of M.P.*[2016 10 SCC 767] and **G. Rajasulochana v Inspector General** [W.P 29706 of 2024 dated 16.04.2024].

7.The order impugned in this writ petition clearly indicate that the first respondent had gone into the issue of title. The allegation with regard to forgery or fraudulent registration cannot be established before the Registering Authority. It has to be established by adducing necessary evidence before the competent civil Court.

8.In view of the above settled position of law, the order passed by the authorities concerned cannot be sustained. Accordingly, this writ petition is allowed and the order of the first respondent dated 30.05.2024 in No.



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9509/AA2/2023 is set aside. The parties shall work out their remedy before the competent Civil Court. No costs. Consequently, connected miscellaneous petition is closed.

15.10.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
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To

The District Registrar (Administration),
Registration Department,
Madurai South,
Madurai District.



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N.SATHISH KUMAR, J.

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